



Timeout called on Cook Inlet challenge

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Courtney - How does this affect our final permit reproposal (i.e., reaffirming the less-stringent permit limits for produced water)??

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Alaska's top environmental regulator has placed on hold a challenge to the state's approval of relaxed limits on produced water discharges into Cook Inlet.

Produced water is water that comes out of wells along with crude oil and natural gas. Such water can carry pollutants such as metals and residual oil.

On Oct. 20, 2011, the state Department of Environmental Conservation certified that proposed new federal limits on discharges were consistent with the state's "antidegradation" policy. The state certification is required under the Clean Water Act.

Law firm Trustees for Alaska subsequently requested an adjudicatory hearing on behalf of environmental, tribal and commercial fishing groups. They argued the DEC lacked a legal basis for endorsing the relaxed discharge limits.

Pending lawsuit

On Feb. 2, DEC Commissioner Larry Hartig issued a five-page decision on the hearing request.

Rather than granting or denying a hearing, Hartig ordered a stay — that is, he put the matter on hold.

The reason, Hartig explained, was because of a pending lawsuit eight environmental and Native organizations brought against the DEC in state Superior Court in Anchorage.

The lawsuit raises the same key legal question as did Trustees in seeking the adjudicatory hearing in the Cook Inlet.

Inlet matter, Hartig said.

Thus, he determined it was best to put the Cook Inlet proceeding on hold pending a final ruling from the court.

Trustees for Alaska itself suggested a stay might be for the best, Hartig wrote.

The groups requesting the adjudicatory hearing were Cook Inletkeeper, a Homer-based environmental nonprofit; the Native Village of Port Graham and the Native Village of Nanwalek, both federally recognized tribes; United Cook Inlet Drift Association, a commercial fishing group; and Cook Inlet Fisherman's Fund, a commercial fishing nonprofit that raises money for legal actions.

Cook Inlet oil and gas industry discharges are allowed under a U.S. Environmental Protection Agency general permit.

Produced water discharges have exceeded 4.5 million gallons per day in years past.

The water comes from wells on offshore platforms, and from shore-based production facilities. Companies involved with these assets include Hilcorp, XTO Energy and ConocoPhillips.

In certifying the new discharge limits, the DEC said the discharges would lower water quality somewhat, but this was necessary to keep the aging oil and gas facilities economically viable.

Cook Inlet is known for its extreme, flushing tides.

—Wesley Loy